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DOCKET FILE COPY ORIGINAL

January 27, 1998

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

BY HAND DELIVERY

Magalie Roman Salas, Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, D.C. 20554

Re: CC Docket No. 97-211
Joint Applications of WorldCom, Inc. and MCI Communications Corporation

Dear Secretary Salas:

Transmitted herewith on behalf of WorldCom, Inc. and MCI Communications Corporation please find an original plus twelve (12) copies of the "JOINT OPPOSITION TO GTE SERVICE CORPORATION MOTION TO DISMISS" to be filed in the above-referenced proceeding. For the Commission's convenience, I have also enclosed a copy of the pleading on a 3.5 inch diskette formatted in an IBM-compatible format using WordPerfect 5.1 for Windows software in a "read only" mode.

I would appreciate it if you would please date-stamp the enclosed extra copy of this filing and return it with the messenger to acknowledge receipt by the Commission.

If you have any questions regarding this submission, please do not hesitate to contact me.

Very truly yours,

Jean L. Kiddoo

Jean L. Kiddoo

Enclosures
cc: All Parties on the Attached Service List

No. of Copies rec'd 0+12
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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Applications of WorldCom, Inc. and	)	
MCI Communications Corporation for	)	CC Docket No. 97-211
Transfer of Control of MCI Communications	)	
Corporation to WorldCom, Inc.	)	

To: The Commission

JOINT OPPOSITION TO
GTE SERVICE CORPORATION MOTION TO DISMISS

MCI COMMUNICATIONS CORPORATION

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Dated: January 27, 1998

TABLE OF CONTENTS

SUMMARY

WorldCom, Inc. ("WorldCom") and MCI Communications Corporation ("MCI", and, collectively with WorldCom, the "Joint Applicants") submit this Joint Opposition ("Opposition") in response to the "Motion to Dismiss of GTE Service Corporation") ("GTE Motion" or "Motion") filed by GTE Service Corporation and its affiliated telecommunications companies (collectively, "GTE") with respect to the above-captioned applications ("Applications").

GTE, despite its filing of a 50-page Petition to Deny conjuring up all manner of issues responding to the public interest showing in the Applications, has the temerity to assert in the Motion that the Commission should dismiss the Applications because they do not contain sufficient information regarding the proposed merger's public interest benefits for the Commission even to reach a consideration on the merits. Evidently blind to the internal contradictions of its position, GTE attempts to impose on the Applications an information standard of GTE's own creation that nowhere appears in the Commission's rules or case law. It also blithely ignores abundant information included in and referenced in the Applications and supporting documentation that demonstrates that the merger of the Joint Applicants -- two non-dominant carriers without market power in any telecommunications market -- would be in the public interest. GTE's Motion should promptly be denied as frivolous.

The Motion should be seen for what it really is -- a grandstanding attempt by GTE, a rejected bidder for MCI, to "game" the regulatory process in the apparent hope of delaying and possibly derailing consummation of the merger. Equally disturbing, as we document below, GTE is attempting to exploit the mere filing of its Motion to instill doubt and uncertainty in the minds of the general public, investors and state regulators by implying that its allegations supporting

dismissal of the Applications have been endorsed by, rather than merely submitted to, the Commission.

GTE's Motion must be summarily denied as being without foundation. Moreover, the Commission should deny the Motion expeditiously, prior to completion of its plenary consideration of the Applications, in order promptly to confirm to the public, investors and state regulators that the Applications are being giving substantive consideration by the Commission, and thereby mitigate the harm resulting from GTE's attempts to distort and misconstrue the Commission's processes in other arenas.

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Applications of WorldCom, Inc. and	)	
MCI Communications Corporation for	)	CC Docket No. 97-211
Transfer of Control of MCI Communications	)	
Corporation to WorldCom, Inc.	)	

To: The Commission

JOINT OPPOSITION TO
GTE SERVICE CORPORATION MOTION TO DISMISS

WorldCom, Inc. ("WorldCom") and MCI Communications Corporation ("MCI," and, together with WorldCom, hereafter, the "Joint Applicants"), by their undersigned counsel, hereby submit this Joint Opposition ("Opposition") to the "Motion to Dismiss of GTE Service Corporation" ("GTE Motion" or "Motion") filed by GTE Service Corporation and its affiliated telecommunications companies (collectively, "GTE") on January 5, 1998, with respect to the above-captioned applications ("Applications").[1]

I. INTRODUCTION

It is beyond dispute that the Applications contain an extensive public interest showing, as demonstrated by the Applicants' Joint Reply to Petitions to Deny ("Joint Reply") filed on January

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[1] The Applications were filed by WorldCom on October 1, 1997, and were amended by the Joint Applicants on November 21, 1997, to reflect the Joint Applicants' agreement to merge.

26, 1998, and the arguments which attempt to refute that public interest showing are wholly without merit. Despite the fact that GTE itself filed a lengthy Petition to Deny addressing the merits of the public interest showing in the Applications, GTE's separate Motion attempts to argue that the Applications did not contain sufficient information for the Commission even to reach a consideration on the merits. This preposterous Motion must be summarily denied as frivolous.

GTE's Motion must be placed in context as the transparent and desperate effort by a rejected bidder for MCI to obstruct the regulatory approval of the MCI-WorldCom merger in the hopes of delaying and possibly derailing its consummation. It is sheer regulatory grandstanding for GTE to maintain that the Applications and supporting documentation are so procedurally defective as not to warrant plenary review by the Commission. Indeed, given the multiple issues which GTE managed to conjure up in its in its 50-page Petition to Deny and in its supplemental January 26, 1998 "Response" in support of petitions to deny, it is patently absurd -- not to mention more than a little inconsistent -- for GTE to argue in a separate Motion that the Applicants have not made enough of a public interest showing even to get to the level of a Commission consideration of the merits of the Applications. Certainly, it is GTE's prerogative to take issue with the merits of Applicants' public interest arguments; it has done so in its contemporaneously-filed Petition to Deny and subsequently in its supplemental Response in support of petitions to deny, and the Applicants have demonstrated that GTE's arguments are

baseless.[2] The Commission will issue its decision in due course in their response to the Petition, and should not be sidetracked from that effort by GTE's incongruent and frivolous Motion.[3]

Setting aside GTE's procedural gamesmanship, the Motion erroneously attempts to hold the Applications to an information standard of GTE's own creation that nowhere appears in the Commission's rules or case law. Moreover, GTE's Motion blithely ignores relevant information included and referenced in the Applications and supporting documentation (which coincidently, it extensively addressed in its separately-filed Petition to Deny). Instead, GTE proffers sweeping generalizations, with little analysis or case law, in support of its efforts to impose on the non-dominant Joint Applicants a merger analysis irrelevant to their situation. It is GTE's Motion, therefore, and not the Applications, that must be promptly dismissed as insufficient. And, because GTE has attempted to exploit the mere fact of the filing of its Motion to instill doubt and uncertainty in the minds of the general public, investors and state regulators by implying that its allegations regarding dismissal of the Applications have been endorsed by, rather than merely submitted to, the Commission, the Joint Applicants respectfully request that the Commission

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[2] As noted above, on January 26, 1998 GTE filed a supplement to its Petition to Deny as a purported "Response" in support of other petitions to deny. Joint Applicants have not yet had an opportunity to review that supplemental pleading in detail to determine whether GTE raises new issues or simply rehashes the meritless arguments which Joint Applicants already refuted in their January 26, 1998 reply to GTE's and others' earlier petitions to deny.

[3] The Commission has become increasingly concerned with the filing of frivolous pleadings and pleadings filed for the purposes of delay. *See, e.g.*, 47 C.F.R. §1.52; *Public Notice*, "Commission Taking Tough Measures Against Frivolous Pleadings," FCC 96-42, 11 FCC Rcd. 3030 (rel. Feb. 9, 1996); In the Matter of Hazle-Tone Communications, Inc., *Order*, File No. 32979-CD-ML-95, DA 97-1060 (Chief, Wireless Telecom Bur., rel. May 21, 1997) at ¶12; In the Matter of Implementation of the Non-Accounting Safeguards of Sections 271 and 272 of the Communications Act of 1934, as amended, *Notice of Proposed Rulemaking*, FCC 96-308, CC Docket No. 96-149, 11 FCC Rcd. 18,877 (rel. Jul. 18, 1996).

dismiss the Motion on an expedited basis to minimize the resulting adverse impact on the Applicants and the public interest.

II. THE APPLICATIONS PRESENT SUFFICIENT EVIDENCE THAT THE MERGER WILL LIKELY ENHANCE COMPETITION AND OTHERWISE FURTHER THE PUBLIC INTEREST

A. There is No Prescribed Form for Public Interest Submissions

GTE's Motion is predicated on a fallacious premise that in order to submit an application that is accepted for processing, the applicant must anticipate, and provide information on, any potential competitive issue that a commenter might want to raise. This is simply not the burden that the Commission's rules place on applicants, let alone non-dominant carriers. Under the rules, the burden is to demonstrate that the proposed merger is in the public interest.

In the recent BA/NYNEX and BT/MCI decisions released immediately prior to the filing of the Applications, the Commission identified and thoroughly evaluated specific market parameters with respect to geographical markets, product segments, and potential competitors as part of its public interest determination.[4] Unlike state regulatory procedural practice, where parties are often asked to submit draft proposed orders resolving a case, there is no Commission requirement to do so in merger cases. Nor did the applicants in BA/NYNEX or BT/MCI follow such a procedure. Unless and until the Commission announces particularized information requirements related to its public interest analysis, it is in the applicants' discretion to decide how best to explain that its proposed merger is in the public interest.

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[4] In the Applications of NYNEX Corporation and Bell Atlantic Corporation for Consent to Transfer Control of NYNEX Corporation and its Subsidiaries, *Memorandum Opinion and Order*, File No. NSD-L-96-10, FCC 97-286 (rel. Aug. 14, 1997) ("*BA/NYNEX*").

MCI and WorldCom submit that the antitrust issues raised will be much more substantial and apparent in cases involving a dominant carrier with bottleneck facilities. In those cases, the Commission might rightfully expect that the applicants discuss those issues that the Commission has identified with respect to previous mergers involving a dominant carrier or carriers. It should not mean, however, that nondominant carriers should be expected to address such issues.[5] Indeed, if the petitions submitted by GTE and others in this docket have proven anything, they have shown that there is no reason to do so. Finally, and in any event, the Commission should not prejudice WorldCom and MCI by dismissing the Applications for failing to meet an as-yet-unannounced standard for market analysis to be considered in an initial application by two nondominant carriers.

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[5] Indeed, contrary to GTE's contentions, *Motion* at 3, nothing in the Commission's Rules or prior decisions *requires* telecommunications applicants seeking Commission approval of a merger to include in their applications a detailed economic quantification of the likely impact of the proposed transaction on the market sectors in which the applicants currently or would be likely to compete. While a Commission footnote in the *BT/MCI Order* urged applicants to provide such analysis, this advice is not a strict requirement even in the case of a merger involving a dominant carrier, and it would be absurd to interpret the Commission's statement as a blanket requirement that all non-dominant transfer applicants present such quantifications in their applications. *See* In the Matter of The Merger of MCI Communications Corporation and British Telecommunications plc, *Memorandum Opinion and Order*, GN Docket No. 96-245, 12 FCC Rcd. 15,351, 15,374 n.74 (rel. Sept. 24, 1997) (*"BT/MCI"*). In fact, in none of the cases relied on by GTE did the applicants present such a level of analysis in their applications, yet in no case did the Commission dismiss the application, as GTE asks the Commission to do here. *Motion* at 3 n.6. Moreover, we note that, in response to specific issues raised by GTE in its separately filed Petition to Deny, Applicants submitted detailed economic analysis through the verified statements of Dennis Carlton, a professor of Business Economics at the Graduate School of Business at the University of Chicago, and Robert E. Hall, a professor of Economics at Stanford University. *See Joint Reply* at Attachments B and C.

B. GTE Misconstrues the Transfer Approval Process For Non-Dominant Carriers

Nowhere in GTE's Motion does it acknowledge that the Commission has long recognized that in a horizontal merger between competitors or potential competitors, where there is no existing or acquired market power, there can be no adverse "horizontal effects."[6] Therefore, although Applicants submitted a detailed public interest showing in their Applications, even a minimal showing of likely synergies and other benefits attributable to the proposed merger would have been sufficient.[7]

Of course, from its perspective as a dominant incumbent local exchange carrier ("ILEC"), and a frustrated suitor for MCI, GTE may well construe the Commission's recent decisions as requiring an extensive market analysis in order for it to satisfy the applicable burden of proof. Indeed, GTE would have to overcome a high hurdle to demonstrate that its acquisition of a major long distance carrier would actually enhance telecommunications competition and promote achievement of the competitive goals of the Telecommunications Act of 1996.[8] Neither

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[6] *See* PacifiCorp Holdings, Inc. and Century Telephone Enterprises, Inc., *Memorandum Opinion and Order*, DA 97-2225, at ¶ 17 (Oct. 10, 1997) (*"Century-PacifiCorp."*); Pittencrieff Communications, Inc. and Nextel Communications, Inc., *Memorandum Opinion and Order,* CWD No. 97-22, DA-97-2260, at ¶ 16 and nn. 35-36 (Oct. 24, 1997) *("Nextel")*.

[7] *See, e.g., Century-PacifiCorp,* at ¶ 3.

[8] Telecommunications Act of 1996, Pub. L. No. 104-104, 110 stat. 56; *see also,* Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, *First Report and Order*, FCC Docket No. 96-98, FCC 96-325, at ¶ 4 (Aug. 8, 1996).

WorldCom nor MCI, however, is a dominant ILEC, in this country or abroad. Nor, either individually or in combination, do they control bottleneck facilities or exercise market power.[9]

In its effort to cause delay and sow confusion, GTE attempts to shoehorn the WorldCom/MCI merger into an inapplicable regulatory framework crafted at best for oversight of acquisitions by dominant ILECs. GTE's Motion is grossly wide of the mark. Moreover, it ignores the substantial showing of pro-competitive benefits in all relevant telecommunications markets included in the Applications and the documents referenced therein.[10]

C. The Applications Present Abundant Evidence that the Transaction is in the Public Interest

Volume I of the Applications discusses the substantial public interest benefits expected to be achieved through the transaction. That discussion, while conveniently ignored by GTE's Motion (but not its Petition to Deny), reviews in detail the business sectors in which the Joint Applicants compete, their relative market shares in key sectors,[11] and the synergies expected by the merged firm. As the parties demonstrate, the implications of these synergies are expected to yield a stronger, more competitive firm that is better able to compete in highly concentrated local exchange services markets (including those of GTE), as well as to enter overseas markets at a

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[9] Notwithstanding the detailed information contained in the Application and amplified in the January 26, 1997, Joint Response, if the Applications in fact lack certain data desired by the Commission, the normal procedure is for the Commission to request the filing of additional information in accordance with applicable *ex parte* rules, not to dismiss the applications. *Century-PacifiCorp.* at ¶ 9; *Nextel* at ¶ 6.

[10] *See Applications*, Volume I, at 24 - 42.

[11] GTE apparently has overlooked the Applications' citation of certain outside "studies," but there is certainly no requirement to present them. *Cf. Motion* at 7.

time of emerging competition.[12] This information describes clearly the specific ways in which consummation of the transaction will advance the objectives of the Telecommunications Act of 1996 and satisfy the public interest.

The Application also cross-references the Applicants' publicly available SEC filings, which contain a detailed discussion of the parties' lines of businesses, assets, financial situation, and rationale for the merger.[13] Among other things, these filings detail the magnitude of the anticipated synergistic savings associated with the merger. Far from concealing the expected consequences of the merger, the Applications and supporting materials also describe the merged company's market ranking and positioning in the long distance, local and data markets, and point to its strong base of business and residential customers, deployed fiber optic capacity, and other assets.

Because the Joint Applicants have no ability to exercise market power, no purpose would be served for them to provide extended analysis that would be necessary if they had to demonstrate to the Commission that a merger had such potential for enhancing competition in one sector to warrant approval despite other substantial adverse effects on competition in a sector they controlled. What GTE asks of the Applicants is metaphysically impossible to achieve. The

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[12] *See, e.g., Applications*, Volume I, at 27 (long distance market share), 29 n.51 (numerous competitors in the long distance sector), 30 nn.53 - 54 (market rank of MCI), 31(expected new market entrants), 36 n.69 (global seamless network offerings), 40 (share of local exchange market); *see also November 21, 1997 Amendment* at 2 (local markets to be served upon merger).

[13] *Applications*, Volume I, at 1 n. 1. A copy of the S-4 Registration Statement, as currently amended, was attached to the *Joint Reply* filed January 26, 1998. *Joint Reply* at 13 n. 11 and Attachment G.

Applicants have not identified "numerous potential anticompetitive effects" of the merger,[14] simply because such effects do not exist. GTE's Motion must be denied as a feeble attempt to squeeze the square peg of this transaction into a round analytical hole in which it does not fit.[15]

Moreover, the Commission is not a *tabula rasa*. The Commission maintains the nation's most extensive database on long distance and local competition. As indicated by the extensive references in the *BA/NYNEX* and *BT/MCI* decisions (referred to repeatedly in the Applications), the Commission has substantial information and expertise relating to the telecommunications industry in general, and to MCI's and WorldCom's lines of business, in particular.[16] More importantly, as a result of its extensive consideration of both the proposed BT/MCI merger and last year's WorldCom/MFS merger,[17] the Commission has extensive information regarding these particular Applicants. Certainly, the Commission's expert review of transfer applications does not

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[14] *Motion* at 2.

[15] As the Commission has recognized, the mode of analysis applied in recent cases was developed in the context of modification of dominant carrier regulation, and it is arguably best suited for such situations. *See Nextel* at ¶11 n.22.

[16] *See, e.g.*, J. Eisner and K. Rangos, Distribution of Equal Access Lines and Presubscribed Lines (FCC Comm. Carrier Bur., Industry Analysis Div., Nov. 1997); J. Bender, Long Distance Market Shares (FCC Comm. Car. Bur., Industry Analysis Div., July 1997). This proposed merger involves two non-dominant carriers who currently compete in the U.S. long distance, local, international, and advanced data services markets, but who have no market power in any telecommunications market sector. As the Commission has repeatedly recognized, their combination does not cause adverse "horizontal effects." The characteristics of these market segments were reviewed in the Commission's *BA/NYNEX* and *BT/MCI* decisions, with specific reference to the Applicants and their various lines of business. The analysis of these cases demonstrates that the proposed merger cannot present any substantial anticompetitive effects.

[17] *See, e.g.*, In the Matter of MFS Communication Company, Inc. and WorldCom, Inc.; *Memorandum , Opinion, Order and Authorization*, FCC No. ITC-96-518-TC *et al.*, DA-96-2039 at ¶¶ 14-15 (Chief, Int'l Bur., rel. Dec. 5, 1996) ("*WorldCom/MFS*").

occur in a vacuum, but rather relies also on the substantial body of information, experience, and precedent developed by the Commission in reviewing a large number of significant potential transactions in the past, including the market analyses recently performed in BA/NYNEX and BT/MCI, as well as its examination of the extent of competition in local markets from the Section 271 cases presented by SBC, Ameritech, and BellSouth.[18] Indeed, the evidence submitted in the Applications goes far beyond that generally provided or reviewed by the Commission under the public interest standard in the case of mergers of non-dominant carriers.[19] As demonstrated in their January 26, 1998, *Joint Reply*, the parties have conclusively satisfied the Commission's public interest standard, permitting prompt approval of this transaction, and there is certainly no basis for dismissing the Applications as insufficient.

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[18] The Commission also has substantial familiarity with WorldCom and the scope of its activities as a result of its consideration, and grant, a year ago of WorldCom's application for merger with MFS. *See WorldCom/MFS; BT/MCI.*

[19] The Commission's International Bureau approves such transactions routinely. *See, e.g.*, In the Matter of Brooks Fiber Communications - LD, File No. ITC-97-637-TC, *Memorandum Opinion and Order and Authorization*, DA 97-2564 (Chief, Telecom. Div., Int'l Bur., rel. Dec. 8, 1997); In the Matter of USLD Communications, Inc., File No. ITC-97-608-TC, *Memorandum, Opinion, Order and Authorization*, DA-97-2500 (Chief, Telecom. Div., Int'l Bur. rel. Nov. 28, 1997); In the Matter of Excel Telecommunications, Inc., Telco Holding, Inc., Long Distance Wholesale Club, File No. ITC-97-375-TC, *Memorandum Opinion, Order and Authorization*, DA 97-2091, 12 FCC Rcd. 15, 283 (Chief, Telecom. Div., Int'l Bur., rel. Sept. 30, 1997); *WorldCom/MFS.*

III. GIVEN GTE'S PUBLIC MISCHARACTERIZATION OF THE MANNER IN WHICH THE COMMISSION IS PROCESSING ITS MOTION, THE COMMISSION SHOULD PROMPTLY DISMISS IT TO SET THIS RECORD STRAIGHT

The Applicants are disquieted about GTE's efforts, through the mere filing of this Motion, to manipulate the Commission's procedures in order to confuse and misrepresent the FCC's processes before state regulators and others. As evidenced below, the Applicants are being harmed by -- and the Commission should be disturbed by -- GTE's deliberate efforts to hold out to the public, investors and state regulators the Commission's announcement of a pleading schedule for the GTE Motion as if it was an FCC endorsement of the Motion's merits. In a highly coordinated regulatory strategy, GTE is attempting to distort the Commission's processes in order to delay and disrupt shareholders' consideration of this transaction.

In a recent filing before the Nebraska Public Service Commission urging that commission to take the extraordinary step of scheduling an evidentiary hearing on a proposed merger of non-dominant carriers, GTE stated:

> GTE notes that on January 12, 1998, the FCC, *in an unusual procedure*, issued a public notice for comment on the motion to dismiss the applications of WorldCom and MCI for transfer of control in CC Docket No. 97-211. The basis for the motion to dismiss is WorldCom/MCI's failure to provide sufficient information to properly evaluate the transaction.[20]

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[20] *GTE Reply to Joint Opposition of WorldCom, Inc. and MCI Communications Corporation to Protest of GTE Corporation and GTE Communications Corporation* (Neb. PSC, filed Jan. 15, 1998) re Application No. C-1649 (emphasis added) (Attachment A, exhibits omitted).

In a similar filing with the Louisiana Public Service Commission, GTE stated that, "*[t]aking a highly unusual step*, the FCC has noticed GTE's Motion to Dismiss for public comment."[21]

Certainly, the Commission's mere recital of GTE's contention that the Applications are deficient is hardly an FCC affirmation of GTE's allegations. As a matter of procedure and Commission process, it should be clearly apparent to GTE and its attorneys that the Commission issued a separate public notice of the filing of the Motion to avoid public confusion about the time period for filing responses to the Motion. The mere issuance of a public notice has no substantive impact, and for GTE to characterize the import of the public notice to both the public, investors and state regulators as a "highly unusual step" can only be construed as an attempt to distort the Commission's processes in arenas not generally familiar with FCC procedures, behavior which the Commission should not countenance.

In order to minimize the potential adverse consequences of this conduct to the public, investors and to state regulatory proceedings, as well as to the Applicants, the Applicants respectfully request that the Commission dismiss the Motion immediately upon the expiration of the applicable pleading cycle, prior to plenary consideration of the merits of the Applications. Only by such prompt action can the Commission timely confirm for the public and for state regulators that, notwithstanding GTE's contrary allegations, the Applications in fact comply with the Commission's informational requirements.

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[21] *Letter to the Commissioners of the Louisiana Public Service Commission from C.L. Caesar and C.C. Willems, Counsel for GTE*, dated Jan. 19, 1998, re Docket No. U-22861 (La. PSC) (emphasis added) (Attachment B, exhibits omitted). What is unusual, of course, is not the Commission's issuance of a pleading schedule notice but GTE's filing of a separate motion to dismiss in addition to a petition to deny.

CONCLUSION

GTE's Motion to Dismiss is nothing more than a grandstanding gesture by a disappointed suitor in an effort to manipulate the Commission's procedures to delay and possibly derail consummation of this transaction. As shown above, the Applications provide the requisite information not only for their plenary consideration by the Commission, but also for its prompt approval of the transaction.

GTE's Motion must therefore be denied, and it must be denied expeditiously, prior to plenary consideration of the merits of the Applications. A prompt dismissal is essential to mitigate the adverse consequences to the public as well as to the Joint Applicants of the dissemination by GTE and its attorneys of GTE's misleading characterization of a Commission pleading schedule

public notice as some sort of Commission endorsement of GTE's unfounded assertions that the Applications were procedurally defective. The Commission should not tolerate this type of behavior or allow its processes to become the vehicle with which GTE attempts to unravel the merger approved by the Boards of Directors of WorldCom and MCI.

Respectfully submitted,

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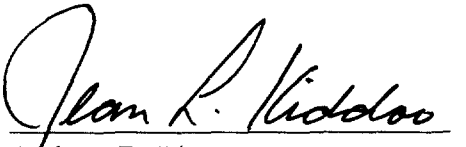

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Date: January 27, 1998

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ATTACHMENT A

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In re Application of Worldcom, Inc.	)	
and MCI Communications Corporation	)	
for Approval to Transfer Control	)	**Application No. C-1649**
of MCI Communications Corporation	)	
to Worldcom, Inc.	)	

GTE REPLY TO JOINT OPPOSITION OF WORLDCOM, INC. AND MCI COMMUNICATIONS CORPORATION TO PROTEST OF GTE CORPORATION AND GTE COMMUNICATIONS CORPORATION[1]

GTE Corporation ("GTEC") and GTE Communications Corporation ("GTE Communications" and collectively "GTE"), by their undersigned counsel, hereby reply to the Joint Opposition of Worldcom, Inc. and MCI Communications Corporation to Protest of GTE Corporation and GTE Communications Corporation ("Opposition").

In GTE's Protest, filed December 24, 1997, GTE set out at Section E, Pages 3-4, a description of GTE's interest in this application. In the Opposition, Worldcom and MCI have apparently conceded this issue in that the Opposition does not even address (let alone contest) the fact that GTE has the requisite interest to participate as a protestant in this proceeding.[2]

In Section F, Pages 4-7, of the Protest, GTE set out the facts and circumstances upon which the Protest was made. Not surprisingly, Worldcom and MCI disagree with the factual representations made by GTE in the Protest. This factual dispute between the parties, however, is exactly the reason why the Commission rules provide for an evidentiary hearing. Under the Commission rules, the Joint Applicants and Protestants are each permitted to put on their case. Based on the evidence presented at the hearing, the Commission (not Worldcom and MCI) will

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[1] GTE files this reply in the event the Commission accepts the filing of the Opposition as a pleading permitted by the Commission Rules of Procedure.

[2] In addition, since the Opposition is not verified, Worldcom and MCI have not provided any factual basis to support any claim that GTE does not have the requisite interest to participate as a protestant in this proceeding.

then ultimately decide whether Worldcom and MCI have met their burden of establishing that the proposed merger complies with Rule 2.26C.

With respect to the hearing, GTE notes that at this point, Worldcom and MCI have not specifically addressed whether approval of the application would be contrary to the legislative policy of the State of Nebraska regarding telecommunications, and therefore not in the public interest. Nebraska Revised Statutes Section 86-801 provides:

> § 86-801. Legislative policy.
>
> The Legislature declares that it is the policy of the state to:
> (1) Preserve affordable telecommunications services;
> (2) Maintain and advance the efficiency and availability of telecommunications services;
> (3) Ensure that consumers pay only reasonable charges for telecommunications services;
> (4) Promote diversity in the supply of telecommunications services and products throughout the state; and
> (5) Promote fair competition in all Nebraska telecommunications markets in a manner consistent with the federal act.

With respect to Worldcom/MCI proceedings in other states, GTE notes that it has been granted intervenor status in Worldcom/MCI proceedings in the following states: Montana, North Carolina, Colorado, Oklahoma, West Virginia and California. A copy of the Colorado order granting GTE's petition to intervene is attached hereto as Exhibit A. In addition, GTE notes that on January 12, 1998, the FCC, in an unusual procedure, issued a public notice for comment on the motion to dismiss the applications of Worldcom and MCI for transfer of control in CC Docket No. 97-211. The basis for the motion to dismiss is Worldcom/MCI's failure to provide sufficient information to properly evaluate the transaction. A copy of the public notice is attached hereto as Exhibit B. Finally, GTE respectfully disagrees with Worldcom/MCI's

representation that the State of Florida has granted an application to allow the Worldcom/MCI transaction to be consummated.

WHEREFORE, GTE respectfully requests that the Commission reject the Opposition and proceed to set a formal evidentiary hearing to be conducted pursuant to Neb. Admin. R. & Regs., Tit. 291, Ch. 1, §§ 016 & 018 to address GTE's Protest and the Amended Application, and that such hearing date be set sufficiently in advance to allow the parties to complete the discovery permitted by Neb. Admin. R. & Regs., Tit. 291, Ch. 1, § 016.11. GTE also requests an oral argument upon conclusion of the hearing and the opportunity to submit post-hearing briefs.[3]

DATED this 15th day of January, 1998.

GTE Corporation, a New York corporation,
Protestant

GTE Communications Corporation, a Delaware corporation,
Protestant

By: Tom Kelley

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[3] With respect to the timing of the Worldcom/MCI transaction, GTE notes that Worldcom/MCI have represented that the transaction could close no earlier than mid-1998. See Exhibit C, attached hereto.

PUBLIC NOTICE

FEDERAL COMMUNICATIONS COMMISSION
1919 M STREET, N.W.
WASHINGTON, D.C. 20554

DA 98-49

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Released: January 12, 1998

COMMISSION SEEKS COMMENT ON GTE SERVICE CORPORATION MOTION TO DISMISS APPLICATIONS OF WORLDCOM, INC. AND MCI COMMUNICATIONS CORPORATION FOR TRANSFERS OF CONTROL OF MCI TO WORLDCOM

CC DOCKET NO. 97-211

On January 5, 1998, GTE Service Corporation (GTE) submitted a motion to dismiss the applications of WorldCom, Inc. (WorldCom) and MCI Communications Corporation (MCI) for transfers of control of MCI to WorldCom. GTE states that the WorldCom/MCI applications egregiously fail to meet the Commission's clearly established information requirements for transfers in the merger context as to warrant their summary dismissal.

GTE states that nowhere in the applications have WorldCom and MCI included an analysis of the relevant product markets, the relevant geographic markets, or the most significant market participants to be affected by this merger. GTE states that the burden to produce this information is upon the applicants, and that the failure to do so warrants the dismissal of their applications.

Interested parties are to file an original and 12 copies of their comments on GTE's motion within 15 days of the date of public notice of this motion in the Federal Register. See Section 1.4(b)(1) of the Commission's rules, 47 CFR 1.4(b)(1). Reply comments must be filed within seven days after the time for filing comments has expired. Comments and reply comments must be filed with the Secretary, FCC, 1919 M Street, N.W., Washington, D. C. 20554. All pleadings are to reference CC Docket No. 97-211. An additional copy of all pleadings must also be sent to Janice M. Myles, Common Carrier Bureau, FCC, Room 544, 1919 M Street, N.W., Washington, D. C. 20554, and to the Commission's contractor for public service records duplication, International Transcription Services, Inc. (ITS, Inc.), 1231 20th Street, N.W., Washington, D. C. 20036. GTE's motion is available for inspection and copying during normal business hours in the FCC's Reference Center, Room 239, 1919 M Street, N.W., Washington, D. C. 20554. Copies also can be obtained from ITS at 1231 20th Street, N.W., Washington, D. C. 20036, or by calling ITS at 202-857-3800 or faxing ITS at 202-857-3805.

This matter shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's revised *ex parte* rules, which became effective June 2, 1997. *See Amendment of 47 C.F.R. § 1.1200 et seq. Concerning Ex Parte Presentations in Commission Proceedings*, GC Docket No. 95-21, Report and Order, ¶ 27 (citing 47 C.F.R. § 1.1204(b)(1)), FCC 97-92 (rel. Mar. 19, 1997); *summarized at* 62 Fed. Reg. 15852 (Apr. 3, 1997). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentations must contain summaries of the substance of the presentations and not merely a listing of the subjects discussed. More than a one or two sentence description of the views and arguments presented is generally required. *See* 47 C.F.R. § 1.1206(b)(2), as revised. Other rules pertaining to oral and written presentations are set forth in Section 1.1206(b) as well. Interested parties are to file with the Commission Secretary, and serve Janice Myles and ITS with copies of any

written *ex parte* presentations or summaries of oral *ex parte* presentations in these proceedings in the manner specifice above. The Commission also requires all written *ex parte* presentations or summaries of oral *ex parte* presentations in this proceeding to be served on all parties to this proceeding.

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